IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.6156 OF 2004

Rev. Ramesh Ganpat Dhale : Petitioner

V/s.

Shri C.N. Aathavale & Ors. : Respondents

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Mrs.Gauri K. Jadhav for the petitioner.

Mr.G.M.Savagare for respondent nos.1 to 4.

Mr.A.H.Palekar, Asstt. Govt. Pleader, for respondent no.5.

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CORAM : S.A. BOBDE, J.

June 14, 2005.

P.C.:

1. Rule.

Mr.Savagare for respondent nos.1 to 4 and Mr.Palekar, learned Asstt. Govt. Pleader for respondent no.5, appear and waive service of rule. By consent, rule is made returnable forthwith and heard by consent.

2. The petitioner has challenged the order of the Deputy Charity Commissioner, Kolhapur Region, Kolhapur, dated 25.4.2004. By the impugned order made under section 41A

of the Bombay Public Trusts Act, 1950, hereinafter referred to as the "Act", the Deputy Charity Commissioner has directed the petitioner to call general meeting for holding an election of the President. This post had apparently been held by the petitioner since the year 1988 without holding any elections thereafter. The learned counsel for the petitioner submitted that there is no power in the Deputy Commissioner under section 41A of the Act to direct holding of such elections.

3. Section 41A of the Act reads as follows:-

> **"41A. Power of Commissioner to issue directions for proper administration of the trust**
>
> (1) Subject to the provisions of this Act, the Charity Commissioner may from time to time issue directions to any trustee of a public trust or any person connected therewith, to ensure that the trust is properly administered, and the income thereof is properly accounted for or duly appropriated and applied to the objects and for the purposes of the trust; and the Charity Commissioner may also give

directions to the trustees or such person if he finds that any property of the trust is in danger of being wasted, damaged, alienated or wrongfully sold, removed or disposed of.

(2) It shall be the duty of every trustee or of such person to comply with the directions issued under sub-section (1)."

4. This submission has no merit in view of the judgement of this Court in Nathmal Kisanlalji Goenka v. Asstt. Charity Commissioner, Akola (1994 Mh.L.J. 303). There is no merit in this petition. The order does not suffer from any error of law apparent on the face of the record.

5. Accordingly, the petition is dismissed. The rule is discharged.

Sd/-

S.A. BOBDE, J.